



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,219	01/28/2004	Michael W. Stephens	STEPHENS 1	2889
31704	7590	04/05/2006	EXAMINER	
JOHN H. THOMAS, P.C. 536 GRANITE AVENUE RICHMOND, VA 23226			TOOMER, CEPHIA D	
			ART UNIT	PAPER NUMBER

1714

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/766,219

Applicant(s)

STEPHENS, MICHAEL W.

Examiner

Cephia D. Toomer

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 26 and 38-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26 and 38-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 23, 2006 has been entered.
2. The rejections of the claims under 35 USC 102 and 103 are withdrawn in view of the translation of WO03080770.

### ***Claim Rejections - 35 USC § 103***

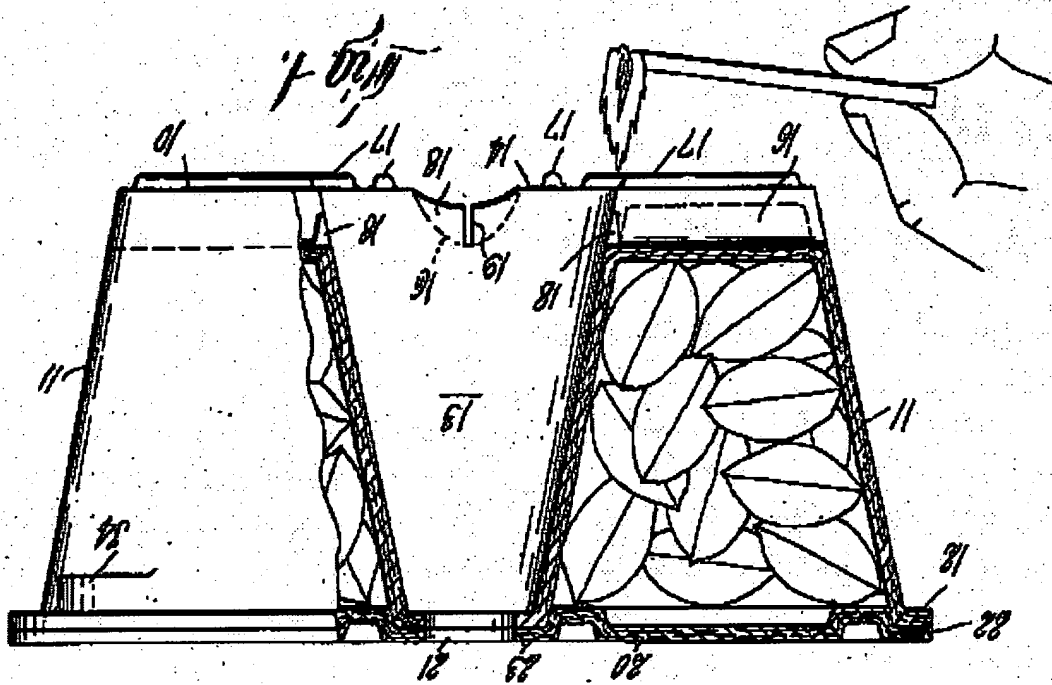
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 26, 38, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaplin (US 2,834,661).

Chaplin teaches a self-kindling fuel package comprising a container for charcoal wherein the container is sufficiently rigid to support the charcoal and is readily ignited to kindle the charcoal (see col. 1, lines 53-62). The container is such configured that it will nest with other containers for shipment (see col. 2, lines 1-7). The container portion has a base wall upstanding and preferably outwardly flaring side walls with an upper

Art Unit: 1714

horizontal, outwardly extending flange. See figure 1. As shown below, the compartment containing the charcoal is cone-shaped wherein the top of the compartment is smaller than the bottom of the compartment; the interior is cone-shaped and wherein in a cross sectional width of the compartment the combustible material inside, the outside width of the top of the cone is less than the width of the opening in the base of the compartment.



Chaplin teaches that the container may be made of cardboard (see col. 3, lines 73-75; col. 4, lines 1-6). Chaplin teaches the limitations of the claims other than the differences that are discussed below.

Chaplin differs from the claims in that he does not specifically teach that the package is arranged as set forth in the claims. However, no unobviousness is seen in this difference because if one were to flip the package, i.e., the bottom now on top, Chaplin's package would meet the claimed limitations. It is well settled that the reversal

Art Unit: 1714

of parts or the rearrangement of parts is deemed to be prima facie obvious. See MPEP 2144.04 VI.

Chaplin does not specifically teach openings in the top and bottom of the package. However, before the package is sealed it would have openings at the top and bottom.

5. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chaplin (US 2,834,661) as applied to claims above, and further in view of Antosko (US 4,906,254).

Chaplin has been discussed above. Chaplin fails to teach that the fuel package of his invention contains a handle. However, Antosko teaches this difference. See abstract; Fig 1 and col. 3, lines 19-20).

It would have been obvious to one of ordinary skill in the art to construct the fuel package as claimed containing a handle because the handle provides a convenient way of carrying the fuel package.

6. Claims 26, 38, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bakic (US 4,793,320).

Bakic teaches a charcoal burner comprising a container housing charcoal (see abstract and Fig 1). The container is constructed of cardboard material (see col. 2, lines 3-9). The container may be conical which implies that the opening in the top of the package is smaller than the opening in the base of the package and the interior is cone shaped (see col. 2, lines 12-16). Bakic teaches that the containers may be arranged such that the containers nest (see col. 2, lines 34-39).

Bakic does not specifically teach that the conical container has an opening at the bottom. However, it would be reasonable to expect that the container would have such an opening prior to the charcoal being placed in the container and before it is sealed, absent evidence to the contrary.

7. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bakic (US 4,793,320) as applied to claims above, and further in view of Antosko (US 4,906,254).

Bakic has been discussed above. Bakic fails to teach that the fuel package of his invention contains a handle. However, Antosko teaches this difference. See abstract; Fig 1 and col. 3, lines 19-20).

It would have been obvious to one of ordinary skill in the art to construct the fuel package as claimed containing a handle because the handle provides a convenient way of carrying the fuel package.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

10766219\040106